

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.14082-2021
Date of Decision : 25.08.2021**

Smt. Roshni

..... Petitioner

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present : Mr. Sanjay Vashisht, Advocate
for the petitioner.

Mr. Bhupender Singh, DAG, Haryana

SUDIP AHLUWALIA, J. (ORAL)

The instant Petition has been filed under Section 439 of the Code of Criminal Procedure seeking Regular Bail in case FIR No.62, dated 18.07.2018, registered under Sections 302/34/506 of the Indian Penal Code, 1860 and Section 25 of the Arms Act (and now summoned under Section 319 Cr. P.C. for the offences under Sections 120-B, 302/506/34 IPC and Section 25 of the Arms Act) at Police Station GRP Gurugram, District GRP Ambala Cantt. (Haryana)

2. The petitioner who happens to be the mother of co-accused Rajesh Durga and Devendra was originally alleged to have accompanied the aforesaid persons and two others, in a Scorpio Car of white colour. Brother of the complainant namely Mahesh was shot to death after being fired upon by the co-accused persons.

3. After completion of investigation, the Police gave a clean chit to the petitioner by reporting that she was not found involved on the spot at the time of incident and there was lack of sufficient evidence against her to arrest her.

4. Nevertheless during the course of trial, the complainant gave oral evidence against the petitioner and a separate application under Section 319 of Cr.P.C. was moved to compel her presence for the purpose of facing trial. The petitioner, thereafter, moved for anticipatory bail, but her prayer was dismissed lastly by this Court on 16.03.2020. She then surrendered before the Trial Court on 11.02.2021 and has been in detention thereafter. Explanation of the delay, in surrendering, by Ld. Counsel for the petitioner is that just after dismissal of her prayer for anticipatory bail, a lock down was declared in the country on account of the COVID-19 Pandemic and therefore, she could surrender herself only much later in the month of February this year.

5. The petitioner is a woman; She is alleged to have been present along with co-accused persons who caused death of the victim Mahesh by shooting at him from their pistols. There was no other allegation against the petitioner of herself carrying any fire arm. During the investigation, the Police had also determined that there was lack of sufficient evidence against her. The co-accused persons who allegedly caused the death of the victim directly with their offensive acts are already in custody. By now, following her surrender in Court, the petitioner has also remained in detention for more than 6 1/2 Months.

6. In the given circumstances, this Court is of the view that her indefinite detention, at this stage, is not called for. As such, she is ordered to be released on bail subject to the imposition of appropriate terms and conditions which are left to the discretion to the Trial Court/Duty Magistrate concerned.

7. Disposed off.

25.08.2021

Shabha

**(SUDIP AHLUWALIA)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No